

REMARKS

Applicants have read with care the July 2, 2003 Office Action. In response thereto, applicants here amend the two remaining independent claims, namely claims 1 and 5, to include the limitations of claims 8 and 9, respectively. In response to the rejection set forth in paragraphs 2 and 3 of the action at pages 2-4, applicants enclose the Rule 132 declaration of one of the inventors, Mr. Hirsch, who addresses the rejections, and explains why the claims as here amended would not have been obvious to one of ordinary skill in the art. Applicants incorporate the statements made in Mr. Hirsch's Rule 132 declaration as though fully set forth here.

Respectfully, applicants submit that the rejection set forth in the July 2, 2003 Office Action are based improperly on hindsight alone, for at least the following reasons:

First, the Sweet patent discusses nailing only in the context of nailing boards to a wooden subfloor. Sweet neither discloses nor suggests nailing solid hardwood floor planks to a concrete surface through an adhesive layer where there is no wooden sub-floor between the planks and the concrete.

Secondly, Sweet discloses only wood products that have hot melt adhesive applied to the bottom surface of the wood, and then covered with a removable cover sheet. By contrast, applicants claim products and processes where the adhesive is applied to the concrete, not to the planks, the planks are then applied to the adhesive layer on the concrete, and nails are driven through the planks, the adhesive layer and into the concrete at right angles.

Third, the Cohn patent does not disclose or suggest any nailing, not even optionally. Instead Cohn asserts that ordinary adhesives, not the adhesive at issue here, which did not exist at the time Cohn applied for his patent, would

permit the attachment of Cohn's synthetic wood products to concrete surfaces, because of the peculiar structure formed on the backside of Cohn's wood products.

Respectfully, the PTO's rejections for obviousness ignore these teachings, and instead use hindsight to pick and choose from the Cohn and Sweet references those snippets of information that the PTO relies on for its rejection. Even so, the PTO cannot identify in either Cohn or Sweet the adhesives, or the nailing, that applicants claim.

In support of the nailing language added to claims 1 and 5, see the specification, page 3, lines 22-23, reading as follows: "The nails are preferably installed at a **normal angle** to the surface of the hardwood floorboards, and are driven through the floorboards and into the concrete floor surface through the adhesive layer." Normal means "at right angles". See Webster's Third International Dictionary, attached hereto as Exhibit A, reading as follows: "**normal** 1 *math* a: PERPENDICULAR... (2): a plane perpendicular to the tangent plane to a surface at a point on the surface..."

In view of the foregoing amendments and remarks, applicant respectfully requests reconsideration and allowance of all remaining pending claims, namely, claims 1-3, 5-7, 10, 12, and 13. Applicants' counsel would welcome a telephone call at any time to discuss any issue.

Respectfully submitted,



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